

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday April 1, 2002

Division Two

**In re George Swan Arlow, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Petitioner must first seek relief, if any, in the Marin County Superior Court. Kline, P.J.

**A095736 -- The People v. Lanyard Lamont Berry.**

The order denying appellant's motion to dismiss is affirmed. Ruvolo, J.  
We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

**A098230 -- In re Michael Flores, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A098123 -- Claude Jackson v. The Superior Court of Solano County;  
People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition/stay is denied. Kline,  
P.J.

**A098215 -- In re Covin McCright, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A097925 -- Steven Olivares v. The Superior Court of Del Norte  
County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate is denied as moot. Kline,  
P.J.

Monday April 1, 2002 (continued)

**A097998 -- Steven Olivares v. The Superior Court of Del Norte County; People of the State of California, R.P.I**

By the Court: The petition for writ of mandate is denied. A subpoena. duces tecum should be used to compel the production of relevant materials in the possession of third parties. (Pen. Code, § 1326 et seq.) Kline, P.J.

Division Four

**A096548 -- The People v. Charles R. Crosier.**

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A093103 -- The People v. Barbara Alice Wright.**

The court's orders of November 7, 2000 are affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A095521 -- Alex R. Thomas & Company v. Mutual Service Casualty Insurance Company.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A096023 -- The People v. Ernest Lupian.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Monday April 1, 2002 (continued)

**A097723 -- In re Sativa N. & Alex R., a Person Coming Under the  
Juvenile Court Law. Esther C. v. The Superior Court of Del Norte County;  
Del Norte County Department of Health and Human Services, R.P.I.**

The order to show cause is discharged, and the petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunifications services and setting a hearing under section 366.26 (§ 366.26, subd. (1).) Because the section 366.26 hearing is set for April 12, 2002, our decision is final as to this court immediately. (Rule 24(a).) Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Wednesday, April 3, 2002

Division One

**A094469 -- Kenneth R. Mathews v. Betty J. Squires.**

Order Modifying Opinion, Denying Request re Exhibits and Denying Rehearing. The Court: It is ordered that the opinion filed herein on March 21, 2002, be modified in the following particulars: (See order.) There is no change in the judgment. The petition for rehearing and the request for permission to have exhibits transmitted to appellate court are denied. Stein, Acting P.J. (Not for Publication.)

Thursday, April 4, 2002

Division Two

**A098218 -- Ali Mirzai et al. v. The Superior Court of Alameda County; Joseph Matossian, R.P.I.**

By the Court: At petitioners' request, the petition for writ of mandate/stay is dismissed. Kline, P.J.

Division Five

**A095631 -- In re Christopher B., a Person Coming Under the Juvenile Court Law. The People v. Christopher B.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

**A095866 -- The People v. Tricia E. Donohue.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

**A095696 -- A.J. Packard v. City of Brisbane.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J.

**A095413 -- The People v. Jeremiah C. Rapp.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Friday, April 5, 2002

Division One

**A092478 -- Lynch, Gilardi & Grummer v. Hodge Food Service, Inc., et al.**

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, P.J. (Not for Publication.)

**A094897 -- The People v. Maurice T.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Four

**A089492 -- William West v. Bechtel Corporation.**

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed March 6, 2002, be modified as follows: (See order.) This modification does not change the judgment. The petition for rehearing is denied. Kay, P.J. (Certified for Publication.)

Division Five

**A094453 -- Glenn Albert Wiersma v. The Board of Chiropractic Examiners.**

The judgment denying a petition for writ of mandate is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, April 8, 2002

Division One

**A095747 --The People v. Anthony St. Andres Hernandez.**

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A093337 -- Adoption of Sabrina B., a Minor.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095098 -- The People v. Paul McCue.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A097461 -- Peter Zeppeiro v. Citibank et al.**

The appeal is dismissed. Costs on appeal to respondents. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Four

**A094256 -- In re Karen L., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Josephine L. et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A095026 -- The People v. Rylando Demetrius Matlock.**

The order denying the People's motion to reinstate the complaint against Matlock is reversed. The matter is remanded to the trial court with instructions to enter a new order reinstating the complaint. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, April 8, 2002 (continued)

Division Five

**A095182 -- The People v. Teddy James.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J.  
(Not for Publication.)

**A095635 -- In re Carlos R., a Person Coming Under the Juvenile Court Law. The People v. Carlos R.**

The requirement that appellant register as a sex offender under section 290 is reversed. In all other respects the disposition is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)



Tuesday, April 9, 2002

Division Two

**A094635 -- In re Sharika J., a Person Coming Under the Juvenile Court Law. The People v. Sharika J.**

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on March 22, 2002, be modified as follows: (See order.) However, the case is remanded to the superior court for a declaration by the court as to whether the vehicle theft offense is a misdemeanor or felony. There is no change in the judgment. Lambden, Acting P.J.

**A098133 -- In re Gary Eugene Kukes, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. In the future, any petitions for a writ of habeas corpus challenging a decision of the Board of Prison Terms to deny parole should be filed in the superior court of the county in which petitioner was convicted and, thereafter, in the appellate district for the county in which petitioner was convicted. (See *In re Sena* (2001) 94 Cal.App.4th 836, petn. for review pending.) Kline, P.J.

**A093054 & A095873 -- In re Cynthia M., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services v. Larry M.**

The appeals are dismissed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A095040 -- Earl Smith v. Santa Rosa Police Department, et al.**

We affirm the court's judgment of the trial court issuing the writ of mandamus. Respondent Smith shall recover his costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Certified for Publication.)

**A094700 -- The People v. Walter Wellman.**

The section 12022.7 enhancements are stricken and the matter remanded for resentencing. In all other respects, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Tuesday, April 9, 2002 (continued)

Division Three

**A092894 -- Alan E. Griffin v. Franchise Tax Board.**

The judgment is affirmed. In the interests of justice, each side to bear its own costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A094882, A095283 -- Henry Curry v. Summit Medical Center et al.**

The purported appeals are dismissed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A094431 -- The People v. Jarrad David Kalajian.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 9, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Reardon, J.; and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Chong, Bailiff.

- A093774      People v. Danny Reyes Suarez  
Cause called. Chris Andrian teleargued for appellant Suarez. Julie Hokans argued for respondent. Cause submitted.
- A094534      People et al.  
v.  
Certain Underwriters at Lloyd's of London et al.  
Cause called. David W. Steuber argued for appellants People et al. William Baron argued for respondents. Cause submitted.
- A090599      Craig S. Kammerer et al.  
A091527      v.  
A091895      Millennium WDG/Partners et al.  
A092095      Charles Collins et al.  
Causes called. Joseph A. Hearst argued for appellants Kammerer et al. Christine A. Kendrick argued for respondents Collins et al. Clement L. Glynn argued for respondents Millennium et al. Causes submitted.
- At this point, the court reconstituted itself to include Kay, P.J., Reardon, J. and Rivera, J.
- A094347      Tamara D. Parker  
v.  
State of California  
Cause called. Kathleen McGinn argued for appellant Parker. David Hamilton argued for respondent. Cause submitted.

The Court recessed at 11:27 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 9, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Sepulveda, J.; and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Shelley Aldridge, Bailiff.

- A095842     David Shepard et al.  
              v.  
              Bruce Handley et al.  
Cause called. Anne Connelly argued for appellants Handley. Jim Price argued for respondents. Cause submitted.
- A091787     Jackson Plaza Homeowners Association  
A092000     v.  
A092062     Alcal Roofing and Insulation et al.  
A092084     Causes called. Scott Williams argued for appellant Jackson. Susan  
A092537     Handelman, John Carr and J. Kevin Moore argued for respective  
A092730     respondents. Causes submitted.
- A093651     Consumer Action et al.  
              v.  
              Wells Fargo Bank, NA et al.  
Cause called. James C. Sturdevant argued for appellants Consumer et al. Robert Moore and Henry Lerner argued for respondents. Cause submitted.

The Court adjourned at 3:00 p.m.

Wednesday, April 10, 2002

Division One

**A086440 & A090295 -- In re Marriage of Elizabeth and John Garzoli.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

**A092842 -- -- The People v. Carlos B. Ramirez.**

We affirm. Haerle, J., Acting P.J. We Concur: Lambden, J., Ruvolo, J.  
(Not for Publication.)

STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE  
MINUTES

Wednesday, April 10, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan J., Parrilli J., and I. Calanoc, Deputy Clerk.

- A095231    John Fewer, et al.,  
                  v.  
                  City and County of San Francisco.  
Cause called and argued by William Sortor, counsel for appellant, and Jill Figg, counsel for respondent. Cause ordered submitted.
- A085623    The People,  
                  v.  
                  Donald Eugene Radonich.  
Cause called and argued by Sandra Uribe, counsel for appellant, and Joan Killeen, counsel for respondent. Cause ordered submitted.
- A095187    Yohanan Family Limited Partnership,  
                  v.  
                  County of Contra Costa, et al.  
                  Sun Valley Village Homeowner's Association.  
Cause called and argued by Edward McDonald, counsel for appellant; Lillian Fujii, counsel for defendants (by teleconference); and Donald Moats, counsel for real party in interest. Cause ordered submitted.
- A095051    In re Brittany B., et al., Persons Coming  
                  Under the Juvenile Court Law.  
                  Social Services Agency,  
                  v.  
                  Yvonne B.  
Both counsel waived Justice Pollak's appearance on the bench for today's oral argument. Cause called and argued by Caroline Todd, counsel for appellant, and Tara Harvy (by teleconference), counsel for respondent. Cause ordered submitted. McGuiness, P.J. left the bench after this case.

- A093850 Richard Castaneda,  
v.  
Wayne Husted.  
Both counsel waived Justice Pollak's appearance on the bench for today's oral argument. Cause called and argued by Martin Glickfeld, counsel for appellant, and Jeffrey Niesen, counsel for respondent. Cause ordered submitted.
- A094513 The People,  
v.  
Marvin Wayne Young.  
Both counsel waived Justice Pollak's appearance on the bench for today's oral argument. Cause called and argued by Jeffrey Kross, counsel for appellant, and Joan Killeen, counsel for respondent. Cause ordered submitted.
- A095359 In re Eugene M., a Person Coming Under  
the Juvenile Court Law.  
The People,  
v.  
Eugene M.  
Both counsel waived Justice Pollak's appearance on the bench for today's oral argument. Cause called and argued by Eric Borgerson, counsel for appellant, and Amy Haddix, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, April 10, 2002 (continued)

Division Four

**A094791 -- Willam Fry et al. v. Donald F. DeLong.**

Those portions of the judgment determining that plaintiffs take nothing on their cause of action for intentional interference with economic advantage, and awarding them \$12,000 on their cause of action for conversion, are affirmed. Those portions of the judgment determining that plaintiffs are liable for unpaid rent, and that defendant is entitled to attorney's fees—but not the amounts—are also affirmed. The judgment is otherwise reversed, and the cause remanded to the trial court so that it may include in the statement of decision whether or to what extent plaintiffs are entitled to credit for the claimed security deposit and utility expenses. The parties shall bear their respective costs of appeal. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

**A096390 -- In re Lyndetta J., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Leonard J.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

**A096107 -- In re Elani J., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Lillie J.**

The order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)



Wednesday, April 10, 2002 (continued)

Division Five

**A095196 -- Jonathan Cobb v. City and County of San Francisco  
Residential Rent Stabilization and Arbitration Board; Richard Passalacqua,  
R.P.I.**

The judgment denying Cobb's petition for writ of administrative mandate is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Thursday, April 11, 2002

Division One

**A095641 -- Haydee C. Javier v. Apkar Systems Inc., et al.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A095367 -- Rodney Richard Jones v. Department of Motor Vehicles et al.**

The order sustaining the demurrer without leave to amend and the subsequent judgment of dismissal are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A094885 -- Joseph Thomas et al. v. Department of Health Services.**

We affirm the judgment. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A097240 -- Richard E. Thomas v. Linda B. Colburn.**

By the Court: Respondent's motion to dismiss the appeal, filed February 21, 2002, is granted and the appeal is dismissed. Stein, Acting P.J.

Division Three

**A097634 -- Anthony C. v. The Superior Court of Lake County; Lake County Department of Social Services et al., R.P.I.**

Let an extraordinary writ issue directing the Lake County Superior Court to vacate its December 31, 2001 order in Case No. JV-4869B setting a permanency planning hearing for the minor John C. and to enter a new and different order affording petitioner Anthony C. a reasonable opportunity to establish his paternity and assert his parental rights. (See § 3162, subd. (d); rule 1413(h).) In the interest of justice, our decision is final immediately as to this court, (Rule 24(d).) Pending the issuance of the remittitur, the permanency planning hearing for the minor John C., currently set for April 15, 2002, is stayed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Thursday, April 11, 2002 (continued)

**A097854 -- David G. v. The Superior Court of Lake County; Lake County Department of Social Services, R.P.I.**

The petition for extraordinary relief is denied on its merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard, supra*, 3 Cal.4th at p. 894.) Because the section 366.26 hearing is set for April 15, 2002, our decision is final immediately. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.) .

Division Four

**A085358 -- Gene Brinsmead v. Carolyn Ann Bone.**

The judgment is affirmed. Respondent's request for sanctions is denied but she shall recover her costs on appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A093628 -- The People v. Amarjit Sweett Chopra**

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A096706 -- The People v. Larry Robert Navarro.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Friday, April 12, 2002

Division One

**A094544 -- The People v. Michael Donald Jensen.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A095016 -- California Apartment Association et al. v. City of Fremont.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

**A096659 -- Ellen Hanley v. Richard Carlsen et al.**

The appeal is dismissed. As sanctions for bringing this frivolous appeal from nonappealable orders, defendants are jointly and severally liable to pay \$2,000 to plaintiff and \$3,000 to the clerk of this court. Likewise, Attorney Alfred Dovbish shall pay \$2,000 to plaintiff and \$3,000 to the clerk of this court. The clerk is directed to deposit in the general fund those sums payable to the clerk. All sanctions shall be paid no later than 15 days after the date the remittitur is filed. (*Pierotti v. Torian, supra*, 81 Cal.App.4th at p. 37.)

Dovbish (Bus. & Prof. Code, § 6068, subd. (o)(3)) and the clerk of this court (*id.*, § 6086.7, subd. (c)) shall each forward a copy of this opinion to the State Bar upon return of the remittitur. (*Pierotti v. Torian, supra*, 81 Cal.App.4th at pp. 37-38.) Lambden, J. We concur: Kline, P. J., Haerle, J. (Not for Publication.)

Division Three

**A095231 -- John Fewer et al. v. City and County of San Francisco.**

The order denying the petition to compel arbitration is reversed. Appellants shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Friday, April 12, 2002 (continued)

**A085623 -- The People v. Donald Eugene Radonich.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

**A088304 & A088514 -- Rancho Solano Master Association v. Amos & Andrews, Inc.**

Amos & Andrews appeal is dismissed. The award of attorney fees to Emerald is reversed and remanded to the trial court for determination in accordance with the views expressed in this opinion. As to the Marker Group, the amended judgment regarding the award of attorney fees should be corrected to reflect a Phase I award of \$133,700 and a Phase II award of \$160,440. In all other respects, the judgment is affirmed. Parties are to bear their own costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Partial Publication.)

Division Four

**A093774 -- The People v. Danny Suarez Reyes.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A093708 -- The People v. Joseph C. White.**

The conviction is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, April 15, 2002

Division One

**A095022 -- The People v. Francisco Delgado Gomez.**

The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J.

**A094492 -- The People v. Paul Love.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

**A093888 -- The People v. Robert Anthony Rojas.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A094061 -- Children's Hospital and Medical Center et al. v. S. Kimberly Belshe et al.**

For the foregoing reasons, the amount of prejudgment interest awarded by the court is reduced from ten percent to seven percent; in all other respects, the judgment is affirmed. Respondents are awarded costs on appeal. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

**A096246 -- The People v. John David Gonzales.**

The order revoking and then reinstating probation with modified terms and conditions is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

**A095206 -- In re Raphael P. III, a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Raphael P.**

The judgment is reversed and the matter remanded for proceedings consistent with the views expressed herein. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Monday, April 15, 2002 (continued)

Division Three

**A095353 -- The People v. Benjamin Killiona.**

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

**A094944 -- The People v. Demario Richard Wiggins.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

**A095046 -- Tito Abao v. Merrill Lynch Trust Company of California.**

Plaintiff Tito Abao purports to appeal from an order sustaining the demurrer of defendant Merrill Lynch Trust Company of California to his amended complaint without leave to amend. That order is not appealable. (9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, § 113, pp. 178-179 and cases cited.) Accordingly, the appeal is dismissed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A093016 -- The People v. Jamise Jermaine Calloway.**

We affirm the judgment of conviction but direct the trial court to strike the body vest enhancement as to count 5 and transmit a corrected abstract of judgment to the Director of the Department of Corrections. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

**A096864 -- In re Antonio F., a Person Coming Under the Juvenile Court Law. The People v. Antonio F.**

The order adjudicating appellant a ward of the court and placing him at Fouts Springs Boys Ranch is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, April 15, 2002 (continued)

**A095742 -- The People v. James Lee Jimminez.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J.  
(Not for Publication.)

**A095706 -- Che Wo Wan et al. v. World Savings and Loan Association  
et al.**

No abuse of discretion having been shown, the order awarding attorney fees  
is affirmed. Defendants shall be awarded costs on appeal. Simons, J. We  
Concur: Jones, P.J., Stevens, J. (Not for Publication.)



Tuesday, April 16, 2002

Division One

**A092928 -- The People v. Michael A. Greenfield.**

The judgment of conviction is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

**A091319 -- Loong Fah Lu et al. v. Theodore W. Dang.**

The judgment is affirmed. Costs are awarded to respondents. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

**A098356 -- In re Rowland Pugh, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Three

**A095051 -- In re Brittany B. and Cody B., Persons Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Yvonne B.**

The jurisdictional findings regarding Brittany are reversed. The dispositional findings regarding both children are also reversed. Finally, the jurisdictional finding regarding Cody is reversed, subject to possible reinstatement following remand, as set forth in part III.D., *ante*. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

**A093521 -- Ester B. Jersey v. John Muir Medical Center et al.**

For the reasons stated above, the judgment in favor of defendants is affirmed. The order awarding defendant attorney fees is reversed. Defendants shall recover their costs on this appeal. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

Tuesday, April 16, 2002 (continued)

**A095187 -- Yohanan Family Limited Partnership v. County of Contra Costa, Contra Costa Community Development Department; Sun Valley Village Homeowner's Association, R.P.I.**

The judgment is reversed. Following remand, the trial court is to issue a writ of administrative mandate, commanding the county to reverse the decision of the hearing officer and to allow Yohanan's request for a 1999 standard rent increase. The Association is to bear costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

**A094513 -- The People v. Marvin Wayne Young, Sr.**

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

**A094347 -- Tamara D. Parker v. California Highway Patrol.**

The judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

**A094062 -- Jennifer Seelig v. Infinity Broadcasting Corporation et al.**

The order denying the motion to strike is reversed. The trial court is directed to enter a new and different order striking plaintiff's complaint in its entirety and an order awarding defendants their attorney fees and costs. Defendants are awarded attorney fees and costs on appeal, the amounts of which are to be determined by the trial court on remand. Simons, J. We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

## MINUTES

### COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

#### DIVISION FIVE

Tuesday, April 16, 2002

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

A093145 Majory Siegel

v.

California Pacific Medical Center

Cause called and argued by Todd M. Schneider, counsel for appellant and by Kathleen Moore-Justice, counsel for respondent. Cause ordered submitted.

A096064 Rory Mc Hale

v.

C & R Heating

Cause called and argued by Dwight M. Willard, counsel for appellant and by Stephen M. Chandler, counsel for respondent. Cause ordered submitted.

A096943 Rory Mc Hale

v.

C & R Heating

Cause called and argued by Dwight M. Willard, counsel for appellant and by Stephen M. Chandler, counsel for respondent. Cause ordered submitted.

A092880 Dadra Mitchell

v.

American Fair Credit Association

Cause called and argued by Fredrick S. Levin and Douglas L. Hendricks, counsel for appellants and by Daniel Girard, counsel for respondent. Cause ordered submitted.

A094225 Purcell-Murray Company, Inc.

v.

The Wolf Range Company, LLC., et al.

Cause called and argued by Thomas J. LoSavio, counsel for appellant and by Gregory C. Tenhoff, counsel for respondents. Cause ordered submitted.

At this point in the proceedings Justice Simon left the bench and Justice Gemello took his place.

A094152 Leon King  
v.  
University Of California At San Francisco, et al.  
Cause called and argued by Daniel C. Payne, counsel for appellant and by Susan T. Kumagai, counsel for respondents. Cause ordered submitted.

A095166 Dah Wa Enterprises, Inc.  
v.  
Kraft Structural Engineers, Inc. et al.  
Cause called and argued by Peter J. Engstrom, counsel for appellant and by Jan T. Chilton, counsel for respondents. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Simons took her place for the remainder of the calendar.

A095516 Alex R. Thomas & Company  
v.  
Pacific Indemnity Company  
Cause called and argued by Mary P. Derner, counsel for appellant and by Lenell T. McCallum, counsel for respondent. Cause ordered submitted.

Court in recessed at 12:05 p.m. until 1:00 p.m.

Court reconvened at 1:00 p.m.

A093362 The People  
v.  
James Fredrick Ledesma  
Cause called and argued by Katarzyna Kozik, counsel for appellant and by Julie Hokans, counsel for respondent. Cause ordered submitted.

Court adjourned at 1:30 p.m.

Wednesday, April 17, 2002

Division One

**A096603 -- In re Marriage of Raymond H. and Letitia A. Robinson.**

The orders are affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

**A096853 -- F. Joseph McGrew v. City of Alameda.**

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Marchiano, P.J.

Division Two

**A089198 -- The People v. Nicole Bradley.**

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, April 17, 2002

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A084117     The People

v.

Tony Domingo Lee

A097097     In re Tony Domingo Lee, on Habeas Corpus

Causes called and argued by Michael P. Goldstein, counsel for appellant and Michael Banister, Deputy Attorney General, counsel for respondent. Causes ordered submitted.

A094346     Nikko Blunt

A095326     v.

Rehabilitare, Inc.

Causes called and argued by Juan Carlos Basombrio, counsel for appellant and Marc C. Barulich, counsel for respondent. Causes ordered submitted.

A095792     Patrick Trahan

v.

Jeffrey Trahan

Cause called and argued by James D. Holden, counsel for appellant and Peter Bassing, counsel for respondent. Cause ordered submitted.

A094976     Stephen Gatto

v.

County of Sonoma, et al.

Cause called and argued by Gregory T. Dion, counsel for appellants and Joseph J. Wiseman, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Haerle, Acting P.J., Lambden, J.,

Ruvolo, J. and S. Graham, Deputy Clerk.

- A093772     The People  
              v.  
              Anthony Shumake
- A096091     In re Anthony Shumake, on Habeas Corpus  
              Causes called and argued by Rick Addicks, counsel for appellant and  
              Nancy Tung, Deputy Attorney General, counsel for respondent. Causes  
              ordered submitted.
- A093625     The People  
              v.  
              Kirk Anthony Williams  
              Cause called and argued by Jo Lynn Lambert, counsel for appellant and  
              Adriano Hrvatin, Certified Law Student, counsel for respondent. Cause  
              ordered submitted.
- A095050     The People  
              v.  
              Christopher K., a Minor  
              Cause called and argued by David J. Larkin, counsel for appellant and  
              Bruce Ortega, Deputy Attorney General, counsel for respondent. Cause  
              ordered submitted.

Court recessed until Thursday, April 18, 2002 at 9:30 a.m.



Wednesday, April 17, 2002 (continued)

Division Three

**A095224 -- The People v. Cutberto Hernandez.**

The judgment and sentence are affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

**A095359 --In re Eugene M., a Person Coming Under the Juvenile Court Law. The People v. Eugene M.**

The November 17, 2000 disposition is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Wednesday, April 17, 2002 (continued)

Division Four

**A095750 -- The People v. Bradley Scott Eichin.**

The order revoking probation in case number CR986088BS and the judgment imposed in case number CR004729BS are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

**A095078 -- In re Casey K., a Person Coming Under the Juvenile Court Law. Contra Costa County Employment & Human Services Department v. Lisa R.**

The appeal is dismissed, without prejudice, to the extent it seeks to challenge the juvenile court's disposition order. The juvenile court's jurisdiction order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

9v

**A096294 -- The People v. Anthony Michael Jones.**

The judgment of conviction is affirmed. The sentence imposed is vacated and the matter remanded for resentencing consistent with the views expressed herein. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, April 18, 2002

Division Two

**A092992 -- The People v. Christopher Cruz Campos.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

**A098380 -- In re Rodney Canada, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A098383 -- In re Ernest Harris, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A096981 -- The People v. Sean Todd Rosetender.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Four

**A097073 -- The People v. Jesse Meyer.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

**A095056 -- The People v. Howard B. Johnson.**

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

**A094152 -- Leon King v. University of California at San Francisco et al.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Thursday, April 18, 2002 (continued)

**A096064/A096943 -- Rory McHale v. C & R Heating, Inc.**

The judgment and the order allowing attorney fees are affirmed. Stevens, J.  
We Concur: Jones, P.J., Simons, J. (Not for Publication.)

**A095767 -- Wilson, McCall & Daoro et al. v. American Qualified Plans, Inc.**

The award of attorney fees is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Friday, April 19, 2002

Division One

**A095515 -- The People v. Aaron Joseph Jones.**

The order denying the motion to strike the prior conviction is affirmed.  
Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

**A097568 -- Randell E. Francis v. Board of Retirement et al.,  
Respondents and R.P.I.**

The cross-appeal is dismissed. Ruvolo, J. We Concur: Kline, P.J.,  
Lambden, J. (Not for Publication.)

**A097006 -- In re Demarcus G., a Person Coming Under the Juvenile  
Court Law. Camille C. v. Alameda County Superior Court; Alameda County  
Social Services, R.P.I.**

The petition for extraordinary relief is denied on the merits. (See Cal.  
Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [precluding further  
challenge to order by petitioner in any subsequent appeal].) The temporary stay of  
the section 366.26 hearing is lifted. Our decision is immediately final as to this  
court. (Cal Rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur:  
Lambden, J., Ruvolo, J. (Not for Publication.)

**A098448 -- In re David Perez, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

**A097618 -- State of California et al. v. The Superior Court of  
Humboldt County; Judy Powers, R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

**A097619 -- State of California et al. v. The Superior Court of  
Humboldt County; Judy Powers; R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

Friday, April 19, 2002 (continued)

**A094814 -- In re Renaldo S., a Person Coming Under the Juvenile Court Law. The People v. Renaldo S.**

The juvenile court's order is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

**A094756 -- The People v. Mitchell Dwight Bradley.**

The appeal is dismissed. Parrilli, J. We Concur: Corrigan, Acting P.J., Pollak, J. (Not for Publication.)

Division Four

**A093868 -- The People v. Juan Alvarado.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

**A091952 -- Robert W. Precobb v. Department of Corrections et al.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

**A093723 -- Mohammad A. Mashhoon et al. v. City of Oakland.**

The judgment is reversed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, April 22, 2002

Division One

**A093285 -- The People v. Dexter Hayes.**

By the Court: The petition for rehearing is denied. Marchiano, P.J.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, April 22, 2002

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and Margulies, J.; N. Millner, Deputy Clerk, and CHP Officer D. Mendias, Bailiff. Justice Stein did not participate in argument of the first case.

A094849     The People,  
              v.  
              Ronald Robert Banshero.  
Cause called and argued by Brian Hong, counsel for appellant, and Ayana A. Cuevas, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Margulies left the bench and Justice Stein participated in the remainder of the session.

A093579     The People,  
              v.  
              Brandon Chism.  
Cause called and argued by Carver Clark Farrow, counsel for appellant, via teleconference, and David M. Baskind, counsel for respondent. Cause ordered submitted.

A094258     In re the Estate of John H. East, Deceased.  
              Kenneth Williams,  
              v.  
              John East, Jr., et al.  
Cause called and argued by Eugene Schneider, counsel for appellant, and John East respondent in pro per. Cause ordered submitted.

A090215/  
A090244     Nagin D. Patel, et al.,  
              v.  
              California Fair Plan Association.  
Cause called and argued by Ron Leaf, counsel for appellants, and Scott D. Schwartz, counsel for respondent. Cause ordered submitted.



Court recessed until 1:30 p.m.

## MINUTES

### CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, April 22, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; B. Robbins, Deputy Clerk; and CHP Officer D. Mendias, Bailiff.

A097679     Marcus W.  
                 v.  
                 Superior Court of the County of San Francisco;  
                 The People.  
Cause called and argued by Marc J. Zilversmit, counsel for petitioner, and Ann Wathan, counsel for real party in interest. Cause ordered submitted.

A095725     Warren Robinson, et al.,  
                 v.  
                 Chin and Hensolt, et al.,  
Cause called and argued by Laurence F. Padway, counsel for appellant, and Douglas Gooding, on behalf of respondents. Several other respondent attorneys appeared, but did not argue. Cause ordered submitted.

At this point in the proceedings, Justice Margulies left the bench and Justice Swager joined the bench.

A094658/     Chubb & Son, et al.,  
A094659/     v.  
A094661/     Kathleen McDermott.  
A094662     Cause called and argued by John B. Lytle, counsel for appellant, and Patricia H. Cullison, counsel for respondent. Cause ordered submitted.

A093647/  
A094737     Henry Grausz, et al.,  
                 v.  
                 Gene A. Farber, et al.,

Henry Grausz, et al.,  
v.  
H. Lee Evans.

Cause called and argued by Elizabeth Williams, counsel for appellant Evans, and Christopher Rillo, counsel for appellant Grausz. Cause ordered submitted.

Court adjourned.

No cases were heard on Tuesday, April 23, 2002.

Monday, April 22, 2002 (continued)

Division Two

**A097911 -- Wilbur N. Curtis et al. v. The Superior Court of San Mateo County; Sheila Brutoco Young et al., R.P.I.**

By the Court: The petition for writ of mandate/prohibition is denied.  
Kline, P.J.

Division Three

**A093627 -- The People v. Stanley Scott.**

The sentence is reversed and the cause is remanded for resentencing.  
Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Tuesday, April 23, 2002

Division One

**A096397 -- McCrary Construction Company, Inc. v. Robert Lawrence Cassell, et al.**

By the Court: Respondent's motion to dismiss the appeal, filed March 13, 2002, is granted and the appeal is dismissed. Stein, Acting P.J.

Division Two

**A094631 -- The People v. Ervin Putnam.**

**A096428 -- In re Ervin Putnam, on Habeas Corpus.**

The judgment is affirmed. The petition for writ of habeas corpus is denied. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

**A098481 -- In re Dahesi Roark, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied for failure to provide a sufficient record for appellate review. Kline, P.J.

Division Three

**A094433 -- Alan Altura et al. v. Shelfbond Trust, A.G., Inc.**

By the Court: The petition for rehearing is denied. Parrilli, Acting P.J.

Division Four

**A094534 -- The People v. ex rel. City of Willits v. Certain Underwriters at Lloyd's of London et al.**

The judgment against the state is reversed. The state shall recover its costs on appeal. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Certified for Partial Publication.)

Wednesday, April 24, 2002

Division Two

**A098491 -- In re De'Wayne German Thomas, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Division Four

**A092422 -- The People v. Jason Hoard.**

Judgment is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J.  
(Not for Publication.)

**A097441 -- Linda Lyons v. Park Place Group et al.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J.,  
Rivera, J. (Not for Publication.)

**A095347 -- The People v. Miguel Rodriguez Sanchez.**

The order of probation is affirmed. Kay, P.J. We Concur: Reardon, J.,  
Rivera, J. (Not for Publication.)

Thursday, April 25, 2002

Division One

**A098347 -- The People v. Richard Lee Rivera.**

By the Court: On April 2, 2002, defendant filed a notice of appeal and application for certificate of probable cause after a guilty plea. On April 14, 2002, superior court denied the application for certificate of probable cause. The notice of appeal does not indicate that the appeal is based on grounds (1) occurring after entry of plea which do not challenge its validity, or (2) involving a search or seizure issue, the validity of which was contested by a motion made pursuant to Penal Code section 1538.5. Accordingly, the appeal is inoperative (Pen. Code, § 1237.5 Cal Rules of Court, rule 31(d).) The appeal is dismissed. Marchiano, P.J.

Division Two

**A095661 -- The People v. Enrique Erin Devers.**

The order denying appellant's request to be restored to sanity is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

**A091911 & A090449 -- Marin Lui, et al. v. California Pacific Medical Center, et al.**

We reverse. Costs on appeal are awarded to appellants. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A093186 -- The People v. Harry J. Williby.**

**A095557 -- In re Harry J. Williby, on Habeas Corpus.**

The judgment is affirmed, and the petition for habeas corpus is denied. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Friday, April 26, 2002

Division Five

**A097868 -- Kimberly Booker v. The Superior Court of San Francisco;  
San Francisco Department of Human Services, R.P.I.**

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J.,  
Gemello, J. (Not for Publication.)

**A095516 -- Alex R. Thomas & Company v. Pacific Indemnity  
Company.**

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J.,  
Gemello, J. (Not for Publication.)



Monday, April 29, 2002

Division One

**A094849 -- The People v. Ronald Robert Banchero.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

**A095556 -- The People v. Marcus H. Cotton.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

**A098527 -- Frito-Lay, Inc. et al. v. The Superior Court of Alameda County; Shawn R. Britto, R.P.I.**

By the Court: Petitioners having notified this court that the case has settled, the petition for writ of mandate/prohibition is dismissed as moot. Kline, P.J.

**A092305 -- The People v. Kenneth A. Longacre.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A092576 -- Estate of Edward Boress, Deceased. Harry Boress v. Bernard M. Boress, et al.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

**A090929 -- Julia M. Humphreys, as Administrator of the Estate of C.F. Humphreys v. Northwestern Title Company.**

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Monday, April 29, 2002 (continued)

**A095671, A097205 -- In re Jesus R., a Person Coming Under the Juvenile Court Law. The People v. Jesus R.**

In sum, we find no arguable issues for review, pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The orders of May 30, July 9, and November 20, 2001, are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

**A094757 -- The People v. William James Baker.**

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

**A094595 -- The People v. Alonzo Evans.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

**A097517 -- The People v. Morgan Daniel McInnis.**

The order revoking and then reinstating probation outside the parameters of Penal Code section 1201.1 et al seq. is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Monday, April 29, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Reardon, J.; and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Anthony Tam, Bailiff.

A093188     People  
              v.  
              David Busio Lopez  
Cause called. Joseph Baxter argued for appellant Lopez. Deputy Attorney General Gerald Engler argued for respondent. Cause submitted.

A092788     People  
              v.  
              Kirti Kant Bhagwan  
Cause called. Donald Bergerson argued for appellant Bhagwan. Deputy Attorney General Frances Marie Dogan argued for respondent. Cause submitted.

A091934     Insurance Commissioner of California  
              v.  
              Golden Eagle Insurance Company  
              Metabolife International, Inc.  
Cause called. Dennis Jones argued for appellant Metabolife. Richard Edwards argued for respondent Golden Eagle. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J., Sepulveda, J. and Rivera, J.

A094042     Patricia Williams  
              v.  
              State Bar of California et al.  
Cause called. Appellant Patricia Williams argued on her own behalf. Charlotte Addington argued for respondent. Cause submitted.

The Court recessed at 10:31a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 29, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Reardon, J.; and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Daniel Mendias, Bailiff.

A087501     People  
              v.  
              Richard Frustere  
Cause called. Dennis P. Riordan argued for appellant Frustere. Charles Kirk argued for respondent. Cause submitted.

A093601     San Mateo County Transit District  
              v.  
              Flat Rate Rent-a-Car  
Cause called. Anthony P. Parrille argued for appellant Flat. Allison Daniels argued for respondent. Cause submitted.

A095941     Monika Gary  
              v.  
              Crystal Ann Stewart et al.  
Cause called. Merrill G. Emerick argued for appellant Gary. Jeanette N. Little argued for respondents. Cause submitted.

At this point, the court reconstituted itself from Kay, P.J., Reardon, J. and Rivera, J. to Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A095447     Jane McGonnell et al.  
              v.  
              Kaiser Gypsum et al.  
Cause called. Diane Abraham argued for appellants McGonnell et al. James R. Colgan argued for respondents. Cause submitted.

A095806     Alan Swain et al.  
                 v.  
                 California Casualty Insurance Co.  
Cause called. Albert G. Stoll argued for appellants Swain et al. Lawrence  
M. Guslani argued for respondent. Cause submitted.

A092818     Lawrence T. Maxwell  
                 v.  
                 CSE Insurance Company et al.  
Cause called. Jan Champion argued for appellant Maxwell. Peter O. Israel  
argued for respondents.

The Court adjourned at 3:00 p.m.

[keep]

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Monday, April 29, 2002

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Reardon, J.; and Sepulveda, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Anthony Tam, Bailiff.

A093188      People  
                 v.  
                 David Busio Lopez  
Cause called. Joseph Baxter argued for appellant Lopez. Deputy Attorney General Gerald Engler argued for respondent. Cause submitted.

A092788      People  
                 v.  
                 Kirti Kant Bhagwan  
Cause called. Donald Bergerson argued for appellant Bhagwan. Deputy Attorney General Frances Marie Dogan argued for respondent. Cause submitted.

A091934      Insurance Commissioner of California  
                 v.  
                 Golden Eagle Insurance Company  
                 Metabolife International, Inc.  
Cause called. Dennis Jones argued for appellant Metabolife. Richard Edwards argued for respondent Golden Eagle. Cause submitted.

At this point, the court reconstituted itself to include Kay, P.J., Sepulveda, J. and Rivera, J.

A094042      Patricia Williams  
                 v.  
                 State Bar of California et al.  
Cause called. Appellant Patricia Williams argued on her own behalf. Charlotte Addington argued for respondent. Cause submitted.

The Court recessed at 10:31a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Monday, April 29, 2002

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J.; Sepulveda, J.; and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Shelley Aldridge, Bailiff.

- A095842 David Shepard et al.  
v.  
Bruce Handley et al.  
Cause called. Anne Connelly argued for appellants Handley. Jim Price argued for respondents. Cause submitted.
- A091787 Jackson Plaza Homeowners Association  
A092000 v.  
A092062 Alcal Roofing and Insulation et al.  
A092084 Causes called. Scott Williams argued for appellant Jackson. Susan  
A092537 Handelsman, John Carr and J. Kevin Moore argued for respective  
A092730 respondents. Causes submitted.
- A093651 Consumer Action et al.  
v.  
Wells Fargo Bank, NA et al.  
Cause called. James C. Sturdevant argued for appellants Consumer et al.  
Robert Moore and Henry Lerner argued for respondents. Cause submitted.

The Court adjourned at 3:00 p.m.



Tuesday, April 30, 2002

Division One

**A098159 -- Jeanna A. v. Superior Court of the County of Solano;  
Solano County Health & Social Services Department et al., R.P.I.**  
**A098160 -- John W. v. Superior Court of the County of Solano, Solano  
County Health & Social Services Department et al., R.P.I.**

We notified the parties when we issued our order to show cause and set this cause for oral argument that we would determine it on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024; § 366.26, subd. (1), precluding petitioner from challenging the orders terminating reunification services and setting the matter for a section 366.26 hearing.) The petitions for extraordinary writ are denied on the merits. The section 366.26 hearing is set for June 26, 2002. Therefore, this opinion is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A096173 -- The People v. Mary Jo Anderson.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A093385 -- The People v. Travell Brown.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

**A095503 -- In re Archie J., a Person Coming Under the Juvenile Court Law. The People v. Archie J.**

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

**A098531 -- In re Edward Quintero Arvizu, on Habeas Corpus.**

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

Tuesday, April 30, 2002 (continued)

**A098556 -- Andre Bernard v. The Superior Court of San Mateo County, People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate is denied. Kline, P.J.

**A098533 -- Randall E. Ellis v. The Superior Court of Del Norte County; People of the State of California, R.P.I.**

By the Court: The petition for writ of mandate is denied as the case is still pending in Del Norte County Superior Court which issued an order to show cause on April 9, 2002. Kline, P.J.

**A097952 -- Hayward Unified School District v. The Superior Court of Alameda County; Andrew K. Knight, R.P.I.**

By the Court: The petition for writ of mandate/prohibition/stay is denied. Kline, P.J.

**A098059 -- Darren S. Kitterman v. The Superior Court of San Francisco County; People of the State of California, R.P.I.**

By the Court: The petition for writ of prohibition is denied and the stay of trial previously imposed in People v. Darren S. Kitterman, San Francisco Superior Court No. 181908/1900374, is lifted. (See order.) Kline, P.J.

Tuesday, April 30, 2002 (continued)

**A095407 -- In re David S., a Person Coming Under the Juvenile Court Law. The People v. David S.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A098372 -- Zep Manufacturing Co. et al. v. The Superior Court of Solano County; Ronald Gilbert et al., R.P.I.**

By the Court: The petition for writ of mandate/stay is denied. Kline, P.J.

Division Three

**A094218 -- The People v. Michelle Birdsey.**

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A095890 -- The People v. Eric J. Bowers.**

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

**A096684 -- The People v. Louis Vincent Green.**

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

**A091882 -- In re the Marriage of Christian De Guigne and Vaughn De Guigne.**

We modify the judgment as follows: (1) Appellant's obligation to make a lump-sum payment for rental deposits and furniture is reduced to \$20,000 in spousal support only, with appellant to receive timely credit against his spousal support obligations for any portion of the lump-sum payment the landlord returns or applies to cover rent; (2) the children's private school tuition and tutoring expenses shall be paid equally by each parent. In all other respects, the judgment is affirmed. Each party to bear their own costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

Tuesday, April 30, 2002 (continued)

**A096874 -- In re Tracy S., a Person Coming Under the Juvenile Court Law. The People v. Tracy S.**

There are no arguable issues for review. The judgment is affirmed.  
Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

**A095529 -- The People v. Ricardo Bell.**

The judgment is modified to award 46 days of credit for time served in case VC48335 (40 days actual, 6 days local conduct) and 240 days of credit for the time served in case VC47836 (160 days actual, 80 days local conduct). As so modified, the judgment is affirmed. The clerk of the superior court is directed to file an amended abstract of judgment reflecting these changes and forward a copy thereof to the Department of Corrections. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A093651 -- Consumer Action et al. v. Wells Fargo Bank, N.A.**

We reverse the order sustaining the demurrer without leave to amend as to the allegations of oral representations made by Bank's employees found in the first, third and fourth causes of action. In all other respects, the judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

**A095941 -- Monika Gray v. Crystal Ann Stewart et al.**

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Certified for Publication.)

**A092493 -- The People v. Daniel Herman.**

The judgment is reversed on counts 1, 2, 6, 7, and 15, and the matter is remanded with directions to dismiss those charges and resentence defendant. In all other respects the judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Certified for Partial Publication.)

Tuesday, April 30, 2002 (continued)

**A091787 -- Jackson Plaza Homeowners Association v. Alcal Roofing and Insulation.**

HOA's purported appeals of the summary judgments entered in favor of Alcal (A091787) and Gonzalez (A092084) are dismissed. The judgment entered in favor of New West on HOA's complaint (A092537) is affirmed, as is the judgment entered in favor of New West on Wong Construction's cross-complaint (A092000). The judgments in favor of Wong Construction and Gonzalez in A092062 are reversed. In all other respects, the judgments in A092062 are affirmed. The order awarding Gonzalez attorney fees in A092730 is reversed. The remaining orders in A092730 are affirmed, with costs to Alcal, Atlas and New West. The parties are to bear their own costs on all other appeals. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Certified for Partial Publication.)

**A095447 -- Jane McGonnell, individually and as Successor in Interest, etc., et al. v. Kaiser Gypsum Company, Inc., et al.**

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A095842 -- David M. Shepard et al. v. Bruce L. Handley et al.**

The trial court is ordered to modify the judgment to reflect "an easement over and across the westerly 5 feet of Lots 3 and 4 of Subdivision 3823, filed September 27, 1968, in Book 124 of Maps, Page 12, Contra Costa County Records as a roadway for ingress and egress to the existing residence on the Shepards' property [trial court to insert legal description] for vehicles, pedestrians, and animals, including for the reasonable maintenance of such roadway, and for parking for visitors to the existing residence." The judgment is otherwise affirmed. The parties shall bear their own costs on appeal. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Tuesday, April 30, 2002 (continued)

Division Five

**A093362 -- The People v. James Frederick Ledesma.**

The judgment of conviction is reversed as to count V (misdemeanor child endangerment, § 273a, subd. (b)). The matter is remanded to the trial court with instructions to prepare a modified abstract of judgment in accordance with this opinion, and to forward a copy of the modified abstract of judgment to the Department of Corrections. The judgment is otherwise affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)